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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-191441

DATE: June 6, 1980

MATTER OF: Richard D. Bruce ^[Claim for 2] - Transportation
expense of minor married daughter]

DIGEST: Forest Service employee requests reconsideration of our decision holding that, incident to his transfer, he could not be reimbursed transportation and related expenses of minor daughter who was married without parental consent before traveling to father's new duty station since Federal Travel Regulations limit reimbursement to employee's "immediate family" and definition of that term excludes married minor children. Since employee has now obtained annulment of daughter's marriage rendering marriage a nullity, employee may now be reimbursed daughter's transportation expense.

This decision is made pursuant to an appeal of our decision Richard D. Bruce, May 11, 1978, in which we held that Mr. Bruce was not entitled to reimbursement for the transportation and related expenses of his minor married daughter incident to his transfer.

Briefly, the facts of that case are that Mr. Bruce's daughter Barbara, then age 16, traveled from her parents' residence in Virginia to North Carolina and there married without the consent of her parents a young man, age 17. She then returned to her family home and traveled with her parents to her father's new duty station at Grangeville, Idaho, without revealing her marriage to her parents.

The Forest Service questioned Mr. Bruce's claim on the basis that Barbara was not a member of his immediate family as defined by Federal Travel Regulations (FPMR 101-7) para. 2-1.4d (May 1973). The definition of "immediate family" in that paragraph excludes minor children who are married. Mr. Bruce argued that Barbara was single since her

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marriage was "void" because she was not of age to consent to the marriage and did not have written parental consent to the marriage as required by the laws of both Virginia and North Carolina.

Our decision analyzed Virginia law as that was the State of Barbara's residence at the time of the marriage. We determined that the marriage was not "void" but merely "voidable." As such, the marriage is valid until set aside by court order. We also found that under the laws of North Carolina, where the marriage ceremony was performed, the same result would hold. Accordingly, we held that Mr. Bruce could not be reimbursed for the transportation expenses of Barbara.

Subsequent to our decision, Mr. Bruce petitioned a North Carolina State court for an annulment of Barbara's marriage. The court granted Mr. Bruce's petition on the grounds that the marriage was procured upon fraudulent representations of age in violation of North Carolina laws. See Gen. Stat. of North Carolina § 51-2. Accordingly, Mr. Bruce now requests reconsideration of our decision on the basis of the annulment.

Section 50-4 of the General Statutes of North Carolina provides for the annulment of certain marriages as follows:

"The district court, during a session of court, on application made as by law provided, by either party to a marriage contracted contrary to the prohibitions contained in the Chapter entitled Marriage, or declared void by said Chapter, may declare such marriage void from the beginning * * *."

Chapter 51, "Marriage" at section 51-2, provides that persons over the age of 16 but under 18 may marry only with the written consent of their parents. It further provides that when a license is procured by any person under 18 by fraud or misrepresentation, a parent may bring an action to annul the marriage.

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An annulment is defined by Black's Law Dictionary, 117 (4th ed. 1951) as an act of making void retrospectively as well as prospectively. It is to be distinguished from a divorce which only operates to dissolve a marriage prospectively. See Black's Law Dictionary "Annulment," 117, supra. Thus, an annulment renders a marriage a nullity from the beginning; that is, in the eyes of the law the marriage never existed. It follows that since Barbara legally was not married, she qualifies as an unmarried minor child and may be considered a member of Mr. Bruce's immediate family as defined by FTR para. 2-1.4d. Accordingly, Mr. Bruce's claim for transportation expenses for his daughter may now be allowed.

Milton J. Fowler

For the Comptroller General
of the United States